

Application Serial No.: 09/903,360  
Filing Date: July 10, 2001

Reply to Office action of: July 30, 2005  
Attorney Docket No.: ARC920010013US1

### **REMARKS**

This Amendment is in response to the Office Action of July 20, 2005. Applicants amended the claims, canceled claims 5, 14 - 18, 25, 27 - 28, and added new claims 29, 30, to more clearly point out the present invention. Applicants further respectfully submit that all the claims presently on file are in condition for allowance or appeal.

### **REJECTION UNDER 35 U.S.C. 101**

The claims were rejected under 35 U.S.C. 101 on the ground that the claimed invention is directed to non-statutory subject matter. The claims as now amended satisfy 35 U.S.C. 101.

### **THE CLAIMS**

### **REJECTION UNDER 35 U.S.C. 102**

Claims 1-9, 12-13, 19-24, and 26 were rejected under 35 U.S.C. 102(e) as being anticipated by Tendler, U.S. Patent No. 6,519,463. Applicants respectfully submit that Tendler does not disclose all the elements and limitations of the claims on file, as now amended. Consequently, the claims on file are not anticipated under 35 U.S.C. 102, and the allowance of these claims is earnestly solicited. In support of this position, Applicants submit the following arguments:

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#### **A. Legal Standard for Lack of Novelty (Anticipation)**

The standard for lack of novelty, that is, for "anticipation," is one of strict identity. To anticipate a claim for a patent, a **single prior source must contain** all its essential elements, and the burden of proving such anticipation is on the party making such assertion of anticipation. Anticipation cannot be shown by combining more than one reference to show the elements of the claimed invention. The amount of newness and usefulness need only be minuscule to avoid a finding of lack of novelty.

The following are two court opinions in support of Applicants' position of non anticipation, with emphasis added for clarity purposes:

- "Anticipation under Section 102 can be found only if a reference shows **exactly** what is claimed; where there are **differences** between the reference disclosures and the claim, a rejection must be based on obviousness under Section 103." *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).
- "**Absence** from a cited reference **of any element** of a claim of a patent negates anticipation of that claim by the reference." *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986), on rehearing, 231 USPQ 160 (Fed. Cir. 1986).

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### **B. Tendler Patent**

With reference to the Abstract, Tendler generally describes a wireless phone based system to accommodate users of wireless phones for providing information as to the location of Certain services such as gasoline stations, movie theatres, drug stores, etc., includes the utilization of a GPS receiver and a wireless phone, with the wireless, phone adapted to call a predetermined number requesting the desired service and providing the location of the cellular phone. In one embodiment, the GPS receiver is co-located with the wireless phone in a car, with the wireless phone being carried in a handsfree cradle having a number of service-request buttons, such that depression of a service-request button activates the wireless phone through its bus structure to call a predetermined number and provide the identity of the caller along with the caller's location.

A single button, located on the phone or on the handsfree cradle, is utilized to cause the wireless phone to dial a concierge service, in which the concierge service has operators and a database, such that the operator can either direct the caller to whatever service the caller desires or take care of the request, with the operator having been apprised of the location of the wireless phone. This allows the operator to key in the, latitude and longitude of the wireless phone and access the database of services both as to the type of service and as to the location of the closest service provider.

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**C. Independent Claims 1, 19, and 26 in Light of Tendler**

Applicants will now present arguments in support of the allowance of independent claims 1, 19, and 26, and the claims dependent thereon, over Tendler.

Applicants respectfully submit that Tendler does not describe "automatically determining the following: current location, capability, suitability, and calendar events for each candidate helper." In particular, Tendler does not account for the candidate helper's calendar events, and seems to focus on the availability of the candidate helpers.

More specifically, Tendler does not describe the use of the candidate helper's calendar events for "automatically projecting a physical location of each candidate helper, at a projected assistance period, for rendering service to the user." Tendler does not account for the candidate helper's projected physical location during the projected assistance period.

For example, during the projected assistance period, a first candidate helper H1 will be located at a distance D1 from the user, and a second equally qualified candidate helper H2 will be located at a distance D2 from the user, wherein D1 is much greater than D2. In this situation, Tendler could still select candidate helper H1 even though at the time rendering the service, helper H1 will be located farther than helper H2 from the user.

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Contrary to Tender, the present invention accounts for calendar events of the candidate helpers when making the selection. This feature of the present invention is further emphasized by the following element of claim 1, which is not described in Tendlar: "if the projected physical location for each candidate helper is determined to be suitable, further determining other obligations for said each candidate helper during the assistance period." In other terms, the present invention checks the candidate helper's calendar events and his/her other obligations.

As an example, Tendlar does not check the candidate helper's calendar events, for instance before the service time, neither does it check the candidate helper's other obligations after the service is rendered. The present invention accounts for this information in order to render the best service to the user and also to optimize the helpers' work schedule.

To conclude, independent claim 1 is allowable for not being anticipated by Tendlar. Independent claims 19 and 26 are also allowable for reciting generally similar elements to the allowable claim 1. As a result, claims 1, 19, and 26 and the claims dependent thereon are also allowable, and such allowance is respectfully requested.

#### **REJECTION UNDER 35 U.S.C. 103**

Claims 10-11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tendlar, U.S. Patent No. 6,519,463, as applied to claims 1-9, 12-13, 19-24 and 26 and further in view of the official notice. Claims 14, 25 and 27-28 were rejected under 35 U.S.C. 103(a) as being unpatentable

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over Thompson et al, U.S. Patent Publication No. 2002/0029160. Claims 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al, U.S. Patent Publication No. 2002/0029160 as applied to claims 14, 25 and 27-28 and further in view of Bernasconi, U.S. Patent Publication No. 2005/0114195.

Applicants respectfully traverse these rejections and submit that the claims on file are not obvious in view of cited references. In support of this position, Applicants submit that the rejected claims depend on the allowable independent claims 1, 19, and 26, as discussed earlier, and are thus allowable.

#### **CONCLUSION**

All the claims presently on file in the present application are in condition for immediate allowance, and such action is respectfully requested. If it is felt for any reason that direct communication would serve to advance prosecution of this case to finality, the Examiner is invited to call the undersigned at the below-listed telephone number.

Date: October 17, 2005

Samuel A. Kassatly Law Office  
20690 View Oaks Way  
San Jose, CA 95120  
Tel: (408) 323-5111  
Fax: (408) 521-0111

Respectfully submitted,



Samuel A. Kassatly  
Attorney for Applicants  
Reg. No. 32,247